

CONFERENCE COMMITTEE REPORT DIGEST FOR EHB 1259

Citations Affected: IC 4-3-21-2; IC 4-3-21-4; IC 6-2.5-4-5; IC 6-3-2-1.5; IC 6-3.1-11.6-9; IC 13-11-2-129.6; IC 34-6-2-82.6; IC 36-7-34-4.

Synopsis: Military bases. Proposed conference committee report for EHB 1259. Adds additional members to the military base planning council (council). Extends the responsibilities of the council to include Camp Atterbury and the Muscatatuck Urban Training Center (MUTC). Requires the department of environmental management to give priority to certain permit applications concerning Camp Atterbury and the MUTC. Grants civil immunity for noise pollution and telecommunications interference to Camp Atterbury and the MUTC. Provides that a county in which the Crane military base is located is a qualified military base enhancement area. **(This conference committee report deletes the contents of EHB 1259 and inserts provisions that do the following: Add additional members to the military base planning council (council). Extend the responsibilities of the council to include Camp Atterbury and the Muscatatuck Urban Training Center. Require the department of environmental management to give priority to certain permit applications concerning Camp Atterbury and the MUTC. Grant civil immunity for noise pollution and telecommunications interference to Camp Atterbury and the MUTC. Provide that a county in which the Crane military base is located is a qualified military base enhancement area.)**

Effective: July 1, 2006.

Adopted

Rejected

CONFERENCE COMMITTEE REPORT

MR. SPEAKER:

Your Conference Committee appointed to confer with a like committee from the Senate upon Engrossed Senate Amendments to Engrossed House Bill No. 1259 respectfully reports that said two committees have conferred and agreed as follows to wit:

that the House recede from its dissent from all Senate amendments and that the House now concur in all Senate amendments to the bill and that the bill be further amended as follows:

- 1 Delete everything after the enacting clause and insert the following:
- 2 SECTION 1. IC 4-3-21-2, AS ADDED BY P.L.5-2005, SECTION
- 3 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1,
- 4 2006]: Sec. 2. As used in this chapter, "military base" means a United
- 5 States **or an Indiana** government military installation that:
- 6 (1) has an area of at least sixty thousand (60,000) acres and
- 7 ~~(2)~~ is used for the design, construction, maintenance, and testing of
- 8 electronic devices and ordnance;
- 9 **(2) has an area of at least nine hundred (900) acres and serves**
- 10 **as an urban training center for military units, civilian**
- 11 **personnel, and first responders; or**
- 12 **(3) has an area of at least five thousand (5,000) acres and serves**
- 13 **as a joint training center for active and reserve components of**
- 14 **the armed forces of the United States.**
- 15 SECTION 2. IC 4-3-21-4, AS ADDED BY P.L.5-2005, SECTION
- 16 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1,
- 17 2006]: Sec. 4. The council consists of the following members:
- 18 (1) Each member of the house of representatives whose house
- 19 district includes all or part of a county that contains any part of a
- 20 military base.
- 21 (2) Each member of the senate whose senate district includes all or
- 22 part of a county that contains any part of a military base.
- 23 (3) The lieutenant governor or the lieutenant governor's designee.

(4) The adjutant general or the adjutant general's designee.
 (5) The commissioner of the department of environmental management or the commissioner's designee.

(6) The commissioner of the Indiana department of transportation or the commissioner's designee.

(7) The **executive** director of the ~~state emergency management agency~~ **department of homeland security** or the **executive** director's designee.

(8) The commissioner of the department of workforce development or the commissioner's designee.

(9) The president of the Indiana economic development corporation or the president's designee.

(10) The director of the office of energy and defense development.

~~(8)~~ **(11)** The following local government representatives:

(A) One (1) member of the county executive of each county that contains all or part of a military base, appointed by the county executive.

(B) One (1) member of the county fiscal body of each county that contains all or part of a military base, appointed by the county fiscal body.

(C) One (1) member:

(i) who is the executive of the municipality having the largest population in each county that contains all or part of a military base if that municipality is a city; or

(ii) who is appointed from the membership of the fiscal body of that town, if a town is the municipality having the largest population in the county.

(D) One (1) member of the legislative body of the municipality having the largest population in each county that contains a military base, appointed by the legislative body of that municipality.

(E) One (1) member of the county executive of each county listed in IC 36-7-30.5-10(4) through IC 36-7-30.5-10(6), appointed by the county executive.

SECTION 3. IC 6-2.5-4-5, AS AMENDED BY P.L.203-2005, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 5. (a) As used in this section, a "power subsidiary" means a corporation which is owned or controlled by one (1) or more public utilities that furnish or sell electrical energy, natural or artificial gas, water, steam, or steam heat and which produces power exclusively for the use of those public utilities.

(b) A power subsidiary or a person engaged as a public utility is a retail merchant making a retail transaction when the subsidiary or person furnishes or sells electrical energy, natural or artificial gas, water, steam, or steam heating service to a person for commercial or domestic consumption.

(c) Notwithstanding subsection (b), a power subsidiary or a person engaged as a public utility is not a retail merchant making a retail transaction in any of the following transactions:

(1) The power subsidiary or person provides, installs, constructs,

1 services, or removes tangible personal property which is used in
 2 connection with the furnishing of the services or commodities listed
 3 in subsection (b).

4 (2) The power subsidiary or person sells the services or
 5 commodities listed in subsection (b) to another public utility or
 6 power subsidiary described in this section or a person described in
 7 section 6 of this chapter.

8 (3) The power subsidiary or person sells the services or
 9 commodities listed in subsection (b) to a person for use in
 10 manufacturing, mining, production, refining, oil extraction, mineral
 11 extraction, irrigation, agriculture, or horticulture. However, this
 12 exclusion for sales of the services and commodities only applies if
 13 the services are consumed as an essential and integral part of an
 14 integrated process that produces tangible personal property and
 15 those sales are separately metered for the excepted uses listed in
 16 this subdivision, or if those sales are not separately metered but are
 17 predominately used by the purchaser for the excepted uses listed in
 18 this subdivision.

19 (4) The power subsidiary or person sells the services or
 20 commodities listed in subsection (b) and all the following
 21 conditions are satisfied:

22 (A) The services or commodities are sold to a business that after
 23 June 30, 2004:

24 (i) relocates all or part of its operations to a facility; or

25 (ii) expands all or part of its operations in a facility;

26 located in a military base (as defined in IC 36-7-30-1(c)), a
 27 military base reuse area established under IC 36-7-30, the part of
 28 an economic development area established under
 29 IC 36-7-14.5-12.5 that is or formerly was a military base (as
 30 defined in IC 36-7-30-1(c)), a military base recovery site
 31 designated under IC 6-3.1-11.5, or a qualified military base
 32 enhancement area established under IC 36-7-34.

33 (B) The business uses the services or commodities in the facility
 34 described in clause (A) not later than five (5) years after the
 35 operations that are relocated to the facility or expanded in the
 36 facility commence.

37 (C) The sales of the services or commodities are separately
 38 metered for use by the relocated or expanded operations.

39 (D) In the case of a business that uses the services or
 40 commodities in a qualified military base enhancement area
 41 **established under IC 36-7-34-4(1)**, the business must satisfy at
 42 least one (1) of the following criteria:

43 (i) The business is a participant in the technology transfer
 44 program conducted by the qualified military base (as defined
 45 in IC 36-7-34-3).

46 (ii) The business is a United States Department of Defense
 47 contractor.

48 (iii) The business and the qualified military base have a
 49 mutually beneficial relationship evidenced by a memorandum
 50 of understanding between the business and the United States
 51 Department of Defense.

(E) In the case of a business that uses the services or commodities in a qualified military base enhancement area established under IC 36-7-34-4(2), the business must satisfy at least one (1) of the following criteria:

(i) The business is a participant in the technology transfer program conducted by the qualified military base (as defined in IC 36-7-34-3).

(ii) The business and the qualified military base have a mutually beneficial relationship evidenced by a memorandum of understanding between the business and the qualified military base (as defined in IC 36-7-34-3).

However, this subdivision does not apply to a business that substantially reduces or ceases its operations at another location in Indiana in order to relocate its operations in an area described in this subdivision, unless the department determines that the business had existing operations in the area described in this subdivision and that the operations relocated to the area are an expansion of the business's operations in the area.

SECTION 4. IC 6-3-2-1.5, AS AMENDED BY P.L.203-2005, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1.5. (a) As used in this section, "qualified area" means:

- (1) a military base (as defined in IC 36-7-30-1(c));
- (2) a military base reuse area established under IC 36-7-30;
- (3) the part of an economic development area established under IC 36-7-14.5-12.5 that is or formerly was a military base (as defined in IC 36-7-30-1(c));
- (4) a military base recovery site designated under IC 6-3.1-11.5; or
- (5) a qualified military base enhancement area established under IC 36-7-34.

(b) Except as provided in subsection ~~(c)~~, (e), a tax at the rate of five percent (5%) of adjusted gross income is imposed on that part of the adjusted gross income of a corporation that is derived from sources within a qualified area if the corporation locates all or part of its operations in a qualified area during the taxable year, as determined under subsection ~~(c)~~; (g). The tax rate under this section applies to the taxable year in which the corporation locates its operations in the qualified area and to the next succeeding four (4) taxable years.

(c) In the case of a corporation that locates all or part of its operations in a qualified military base enhancement area **established under IC 36-7-34-4(1)**, the tax rate imposed under this section applies to the corporation only if the corporation meets at least one (1) of the following criteria:

- (1) The corporation is a participant in the technology transfer program conducted by the qualified military base (as defined in IC 36-7-34-3).
- (2) The corporation is a United States Department of Defense contractor.
- (3) The corporation and the qualified military base have a mutually beneficial relationship evidenced by a memorandum of understanding between the corporation and the United States

Department of Defense.

(d) In the case of a business that uses the services or commodities in a qualified military base enhancement area established under IC 36-7-34-4(2), the business must satisfy at least one (1) of the following criteria:

(1) The business is a participant in the technology transfer program conducted by the qualified military base (as defined in IC 36-7-34-3).

(2) The business and the qualified military base have a mutually beneficial relationship evidenced by a memorandum of understanding between the business and the qualified military base (as defined in IC 36-7-34-3).

(e) A taxpayer is not entitled to the tax rate described in subsection (b) to the extent that the taxpayer substantially reduces or ceases its operations at another location in Indiana in order to relocate its operations within the qualified area, unless:

(1) the taxpayer had existing operations in the qualified area; and
(2) the operations relocated to the qualified area are an expansion of the taxpayer's operations in the qualified area.

(f) A determination under subsection (e) that a taxpayer is not entitled to the tax rate provided by this section as a result of a substantial reduction or cessation of operations applies to the taxable year in which the substantial reduction or cessation occurs and in all subsequent years. Determinations under this section shall be made by the department of state revenue.

(g) The department of state revenue:

(1) shall adopt rules under IC 4-22-2 to establish a procedure for determining the part of a corporation's adjusted gross income that was derived from sources within a qualified area; and
(2) may adopt other rules that the department considers necessary for the implementation of this chapter.

SECTION 5. IC 6-3.1-11.6-9, AS AMENDED BY P.L.203-2005, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 9. (a) Subject to subsection (c), a taxpayer is entitled to a credit against the taxpayer's state tax liability for a taxable year if the taxpayer makes a qualified investment in that taxable year.

(b) The amount of the credit to which a taxpayer is entitled is the percentage determined under section 12 of this chapter multiplied by the amount of the qualified investment made by the taxpayer during the taxable year.

(c) This subsection applies to a taxpayer making a qualified investment in a business located in a qualified military base enhancement area established under IC 36-7-34-4(1). To qualify for a credit under this chapter, the taxpayer's qualified investment must be in a business that satisfies at least one (1) of the following criteria:

(1) The business is a participant in the technology transfer program conducted by the qualified military base (as defined in IC 36-7-34-3).

(2) The business is a United States Department of Defense contractor.

(3) The business and the qualified military base have a mutually

beneficial relationship evidenced by a memorandum of understanding between the business and the United States Department of Defense.

(d) This subsection applies to a taxpayer making a qualified investment in a business located in a qualified military base enhancement area established under IC 36-7-34-4(2). To qualify for a credit under this chapter, the taxpayer's qualified investment must be in a business that satisfies at least one (1) of the following criteria:

(1) The business is a participant in the technology transfer program conducted by the qualified military base (as defined in IC 36-7-34-3).

(2) The business and the qualified military base have a mutually beneficial relationship evidenced by a memorandum of understanding between the business and the qualified military base (as defined in IC 36-7-34-3).

SECTION 6. IC 13-11-2-129.6, AS ADDED BY P.L.5-2005, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 129.6. "Military base", for purposes of IC 13-15-3-1.3, means a United States **or an Indiana** government military installation that:

(1) has an area of at least sixty thousand (60,000) acres and ~~(2)~~ is used for the design, construction, maintenance, and testing of electronic devices and ordnance;

(2) has an area of at least nine hundred (900) acres and serves as an urban training center for military units, civilian personnel, and first responders; or

(3) has an area of at least five thousand (5,000) acres and serves as a joint training center for active and reserve components of the armed forces of the United States.

SECTION 7. IC 34-6-2-82.6, AS ADDED BY P.L.5-2005, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 82.6. "Military base", for purposes of IC 34-30-21, means a United States **or an Indiana** government military installation that:

(1) has an area of at least sixty thousand (60,000) acres and ~~(2)~~ is used for the design, construction, maintenance, and testing of electronic devices and ordnance;

(2) has an area of at least nine hundred (900) acres and serves as an urban training center for military units, civilian personnel, and first responders; or

(3) has an area of at least five thousand (5,000) acres and serves as a joint training center for active and reserve components of the armed forces of the United States.

SECTION 8. IC 36-7-34-4, AS ADDED BY P.L.203-2005, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 4. A qualified military base enhancement area is established for each **of the following:**

(1) A technology park located within a radius of five (5) miles of a qualified military base. The geographic area of ~~the~~ a qualified military base enhancement area established under this

1 **subdivision** is the geographic area of the technology park.
2 **(2) A county in which all or part of a qualified military base is**
3 **located. The geographic area of a qualified military base**
4 **enhancement area established under this subdivision is the**
5 **geographic area of the county other than any area in which a**
6 **technology park described in subdivision (1) is located.**

(Reference is to EHB 1259 as printed February 24, 2006.)

Conference Committee Report
on
Engrossed House Bill 1259

Signed by:

Representative Koch
Chairperson

Senator Steele

Representative Crooks

Senator Hume

House Conferees

Senate Conferees